IN THE HIGH COURT OF JUDICATURE AT BOMBAY

APPELLATE SIDE

CONTEMPT PETITION NO. 321 OF 2001

Manoj Patel & Ors. ... Petitioners

Vs.

Maharashtra Housing & Area
Development Authority & Ors. ... Respondents

And

Shri D.S. Patil & Ors. ... Contemnors

Mr.M.V.Holmagi,Advocate,for the petitioners - Absent.
Mr. Bharat Mehta, AGP, for the State.

CORAM: J.H.BHATIA,J.

DATE: 28th November,2007.

P.C.

1. The petitioners, who are seven in number, claim to be inhabitants of a slum area for which Slum Rehabilitation Scheme was drawn. Respondents Nos. 4 and 5 were given the letter of intent for development of the slum. The petitioners filed L.C.Suit No.3983/2000 before the City Civil Court seeking perpetual injunction restraining the defendants from demolishing, pulling

down, removing and/or dispossessing the plaintiffs from their premises. It appears that some interim stay was granted. A preliminary objection was taken to the maintainability of the suit and that issue was decided against the plaintiffs. However, while returning the plaint, by an order dated 10.10.2000, the learned trial Court observed that the earlier statement made by defendants Nos. 4 and 5 on 15.2.2000 shall continue for eight weeks. Against the order passed by the City Civil Court, the present petitioners had filed an appeal before this Court wherein on 21.11.2000 an order was passed to extend the existing ad-interim order for two weeks. On 21.12.2000 also an order was passed to maintain the status quo pending further orders. According to the petitioners, the orders passed by the City Civil Court as well as this Court from time to time have been violated and the order was issued to demolish their huts. They sought action to be taken against the respondents.

2. Respondent No.1, Mr. Datta Shankar Patil, Deputy Collector (Encroachment), has filed his affidavit in reply wherein he has given the details of the litigation. According to him, no contempt was committed by Respondents Nos. 1 to 3. According to him, on 10.2.2000, the authorities got intimation from the petitioners' Advocate about filing of the suit and

similar intimation was received on 2.3.2000 from the Government Pleader. There was no stay order nor there was any specific prayer for stay of the proceedings initiated by Show Cause Notice dated 5.2.2000. Therefore, on 29.4.2000, a letter was issued to the petitioners calling upon them to remain present on 10.5.2000 for hearing. It was adjourned to 19.5.2000 at the request of the petitioners. It was contended that Mahadev Khale, who was one of them, gave a letter giving his consent for joining the said scheme. Therefore, no further letter was given to him. Others were served notices to remain present. The matter was adjourned from time to time. They never produced any order showing that there was any stay to the Scheme or the proceedings. It is contended that on On 10.10.2000, the suit itself was disposed of as the plaint was ordered to be returned for want of jurisdiction. On 7.11.2000, this Court had directed to continue the protection under the order granted by the trial Court till 13.11.2000. On 1.12.2000, the appeal was itself dismissed in default and it was restored on 11.4.2001. On 13.7.2001, it was dismissed as not maintainable. On 28.5.2001, the petitioners' Advocate informed that there was order that no action should be taken against the petitioners. By letter dated 31.5.2001, he was requested to produce the stay order. Similar letter again was issued on 8.6.2001. Mr. D.S.Patil, Deputy Collector

(Encroachment) thus points out that no order of stay was produced and the suit as well as the appeal have been finally dismissed.

4. As pointed out earlier, none is present for the petitioners. Heard learned AGP for Respondents Nos. 1 to 3. After going through the facts stated in the affidavit, noted above, I find that there is no substance in the Contempt Petition particularly when there was no clear order of stay as far as Respondents Nos. 1 to 3 are concerned. As pointed out earlier, when the plaint was rejected and was directed to be returned by the trial Court, only respondents Nos.4 and 5 had made statements to continue their earlier statement indicating that the Court had not passed any stay order. Only respondents Nos. 4 and 5 had made certain statements which remained in force for some time in view of the fact the suit and the appeal were not even tenable, in my considered opinion, there is no necessity to take any action on Contempt Petition filed by the petitioners.

5. In the result, the petition stands dismissed. The proceedings are dropped.

(J.H.BHATIA,J.)